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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO. <i>A-5</i>
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EXAMINER
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ART UNIT	PAPER NUMBER <i>11</i>
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DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

## Office Action Summary

Application No.

09/165 034

Applicant(s)

NEELY ET AL

Examiner

Norca L. Torres-Velazquez

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 October 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-16 and 27-48 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1-7, 9-16, 27-48 is/are rejected.
- 7) ☐ Claim(s) 1, 27 and 35 is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. & 119(e).

### Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 7\_8
- 18) ☐ Interview Summary (PTO-413) Paper No(s)
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other

### DETAILED ACTION

1. Rejections of claims 1-7 and 10-16 under 35 U.S.C. 103(a) have been withdrawn since MARSHALL does not disclose different basis weight, but high and low density areas

#### *Claim Objections*

2. Claims 1, 27 and 35 are objected to because of the following informalities: there is no support in the specification for the "at least 1.5 times" limitation. Since this was in the original claims, the specification can be amended to include that limitation. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1-6, 10 and 13-16 are rejected under 35 U.S.C. 102(b) as being anticipated by GRIESBACH, III et al. (US 5,575,874).

GRIESBACH, III et al. discloses a method for making shaped nonwoven fabric that melt-spins continuous polymeric filaments, and the web has an array of surface features resulting in a variance in basis weight across the web and comprising projections corresponding to the forming surface recesses separated by land areas wherein the web projections have a basis weight at least about 30% greater than the land areas. (Refer to claim 1)

The reference further discloses that these nonwoven fabrics are useful in applications such as absorbent personal care products. (Column 1, lines 16-20).

Art Unit: 1771

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-7, 9-16, 27-48 are rejected under 35 U.S.C. 103(a) as being unpatentable over GRIESBACH, III et al. (US 5,575,874).

GRIESBACH, III et al. discloses a method for making shaped nonwoven fabric that melt-spins continuous polymeric filaments, and the web has an array of surface features resulting in a variance in basis weight across the web and comprising projections corresponding to the forming surface recesses separated by land areas wherein the web projections have a basis weight at least about 30% greater than the land areas. (Refer to claim 1)

The reference further discloses that these nonwoven fabrics are useful in applications such as absorbent personal care products. (Column 1, lines 16-20).

Although GRIESBACH, III et al. does not explicitly disclose that the first basis weight and second basis weight are from about 0.2 ounces per square yard to about 9 ounces per square yard, the reference does disclose that the intended use of these nonwoven fabrics is in applications such as absorbent personal care products.

It would have been obvious to use a range from about 0.5 to about 9 oz/yd in view of the intended use and cost considerations. Applicant's ranges for the limitation of basis weight are broad and encompass typical values that are found in the prior art. Further each of the elements are recognized as result effective variables in this field of endeavor and it has been held that discovering optimum values would have been or result effective variables involves only routine experimentation.

Regarding the use of the nonwoven web adhered to a substrate to form a laminate, it is well known in the art of absorbent personal care products to use laminates.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

SMITH (US 4,977,011).

SMITH discloses a breathable elastic structure that consists of a nonwoven low basis weight first outside breathable layer and a nonwoven low basis weight second outside breathable layer parallel to the first outside breathable layer.


1. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Norca L. Torres-Velazquez whose telephone number is 703-306-5714. The examiner can normally be reached on Monday-Thursday 7:30-5:00 pm and alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on 703-308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3599 for regular communications and 703-305-3599 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1495.

nlt

December 18, 2000

  
TERREL MORRIS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1700